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Docket No.: 23.1093

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Group Art Unit: 2673 Technology Center 2600

Pre the Application of:

Hiroyuki SHIBATA et al.

Serial No. 09/760,883

Confirmation No. 4981

Filed: January 17, 2001

Examiner: Vincent E. Kovalick

For: DISPLAY APPARATUS WITH REDUCED NOISE EMISSION AND DRIVING METHOD
FOR THE DISPLAY APPARATUS

**COMMUNICATION TO THE EXAMINER REQUESTING WITHDRAWAL OF THE FINAL
OFFICE OF JULY 28, 2004, SINCE PREMATURE UNDER MPEP 706.07(c) – (e) AND
ISSUANCE OF A NEW, NON-FINAL OFFICE ACTION SETTING A NEW RESPONSE PERIOD**

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

The Office Action of July 28, 2004 is Prematurely Made Final by the New Grounds of Rejection in Item 3 of the Action.

A. 35 USC §112 Rejection of Item 3 asserted for the first line in the Final Office Action

Item 3 of the Action rejects claims 3, 7, 11, 16, 20, 24, 29 and 48-52 under 35 USC §112, ¶1 because the specification allegedly fails to teach the claim limitation of a clock signal frequency which “continuously varies within a range of plus or minus one percent of a reference frequency”.

To the contrary of the Examiner’s contention, that limitation is clearly taught in the specification:

At page 14, lines 29-35:

...the spread-type clock oscillator 132 outputs a clock whose frequency varies with time in a continuous manner within a range of, for example, plus or minus a few percent of a

reference frequency ... (in a specific example, the clock frequency varies within a range of plus or minus about one percent...).

Page 17, lines 26-36 repeats the above description and then more specifically recites at lines 33-34:

...two [frequencies] at plus/minus one percent of the reference frequency

(Emphasis added)

Several other locations also refer to "plus or minus a few percent" -- see e.g. page 3, line 7-8, line 22, page 4, lines 7-8 and line 24, and page 5, line 3. Furthermore, the limitation was present in the original claims 3, 7, 11, 16, 20, and 24.

The §112, ¶1 rejection is raised for the first time and thus belatedly in the Final Office Action mailed July 28, 2004, rendering the final status thereof premature.

B. Item 13: Erroneous Contention that "Applicant's amendment necessitated that the new ground(s) of rejection presented in this Office Action

Item 1 announces that "new prior art has been introduced in the rejection of claims", rendering applicants remarks of the prior response "moot." Further, Item 13 asserts, erroneously, that the applicant's amendment necessitated the new grounds of rejection, in accordance with which the Action is made Final under MPEP Section 706.07(a).

The Examiner errs in this position, since the only amendments made were directed to incorporating dependent claim limitations into related independent claims with cancellation of the corresponding dependent claims. Those amendments, more particularly, commonly introduced the word -- plasma -- in the preambles of the independent claims. Specifically, independent claims 1, 6, 10, 14, 19, 23, 26, and 27 were so amended and their corresponding dependent claims 4, 8, 12, 17, 21, 25 and 30 were cancelled.

CONCLUSION

Accordingly, withdrawal of the Finality of the Action mailed July 28, 2004 is mandated since premature, pursuant to MPEP 706.07(c) through 706.07(e), and the same accordingly should be withdrawn and a new, non-final Office Action issued, setting a new Response period based on the mailing date of same.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

Date: November 12, 2004

By: 

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